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April 4, 2005

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APR - 4 2005

Federal Communications Commission
Office of Secretary

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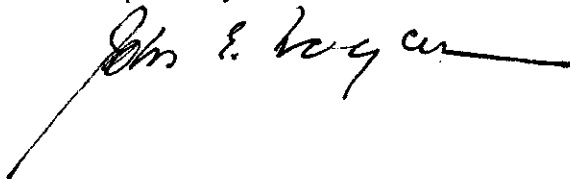
Ms. Marlene H. Dortch
Secretary of the
Federal Communications Commission
Washington, D.C. 20554

Re: *Ex Parte* Communication
Docket CC 94-102

Dear Ms. Dortch:

On behalf of the ATX Group, enclosed are two copies of a written *ex parte* communication involving the above docket that has been submitted to the Commission's staff.

Respectfully,



Copy to:

Ms. Catherine W. Seidel, Deputy Chief, Wireless Telecommunications Bureau
Mr. Michael Wilhelm, Chief, Public Safety and Private Infrastructure Division

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April 4, 2005

Ms. Catherine W. Seidel
Deputy Chief, Wireless Telecommunications Bureau
Federal Communications Commission
Washington, D.C. 20554

Dear Ms. Seidel:

As part of its commitment to keep the Commission advised of activities in automotive telematics with regard to emergency response, enclosed is a copy of a letter ATX Technologies, Inc. submitted to the National Emergency Number Association (NENA) addressing its most recent draft addressing Proposed Private Call Center Standards.

Please call upon me if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading 'Gary A. Wallace'.

Gary A. Wallace
Vice President, Corporate Relations
ATX Group

Copy Provided to:

Mr. Michael Wilhelm, Chief, Public Safety and Private Infrastructure
Division
Ms. Marlene H. Dortch, Secretary of the Commission

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March 24, 2005

APR - 4 2005

Via electronic mail and hand delivery

Federal Communications Commission
Office of Secretary

Mr. Rick Jones
Operations Issues Director
National Emergency Number Association
4350 North Fairfax Drive
Arlington, Virginia 22203-1695

Dear Mr. Jones:

We are writing to strongly object to the National Emergency Number Association's (NENA) Proposed Standards for Private Call Centers and urge that the Board, in the interest of public safety, not adopt these for the following reasons.

1) The standards will subject Public Safety Answering Points (PSAPs) and Industry to enormous liability exposure

The proposed standards ignore the premise that by establishing standards for private call centers, NENA is establishing those same standards for a PSAP. Prescribing standards articulating a "level of professional behavior" involving emergency response will fuel litigants seeking compensation arising from particular events against our industry and NENA members. NENA's prominence in the 9-1-1 field invites plaintiffs to contend that the standard of care in all emergency response circumstances are the proposed standards. The document presents broad opportunity for plaintiffs to assert that a standard of care exists and has not been adhered to.

The proposed standards impose mandates in areas that PSAPs and private call centers share. These include maintaining the most current mapping databases, providing continuous facility and monitoring capability, including back up for power and telephone systems, implementing particular telephone system features, data storage and retrieval capability, physical security access, and access to critical information. The standards also encompass the degree of initial training required and supervisory capability. When added to the even broader range of areas that NENA thinks "should" be adopted, the liability exposure and/or the cost of complying with such standards is enormous for the PSAP. Because of the breadth of the standards a substantial imbalance would arise when the public agency is forced to match the private investment and the "ISO or EFQM quality performance standards" in telematics call center technology, much of which can be underwritten by profitable, non-emergency services. Adopting the proposed

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standards would delay, not speed emergency response because it will direct investment from where it is needed and where local government officials believe it belongs.

There is an inescapable link between those standards imposed on private call centers and how a PSAP carries out its responsibilities and it is incongruous that NENA itself demands insulation from liability from the proposed standards while opening up exposure to both private and public call centers. In most states, as with the federal government, state and local agencies are subject to tort claims emanating from the negligence of its employees and agents, the state having waived its sovereign immunity from lawsuit. The proposed standards purport to be minimum baselines for the tow truck dispatch, premise security, telematics and other industries. In a lawsuit, local government will be faced not with a question of whether its conduct was reasonable under the circumstances, but why did it not adopt and adhere to the proposed standards. Local government should be responsible for establishing the level of resources needed to carry out effective emergency response. NENA's proposed standards substitute the judgment of a small working group (with little representation from either the private call center industry or operational PSAPs) for this basic responsibility entrusted to local officials.

2) The proposed standards create confusion and contradiction

The proposed standards do not advance public safety but complicate it. The intrusion of the proposed standards thrusts NENA into an opposition position with local PSAP guidelines as well as guidelines collaboratively agreed upon through separate, inclusive processes between public safety organizations and the telematics, premise security and towing industries. Foremost is NENA's preference that private call centers communicate through the "native 911" system instead of the 10 digit emergency access line virtually all PSAPs provide to automotive telematics call centers and others. NENA's position contradicts the Association of Public Safety Officials, International (APCO) embrace of this practice in section 11 of its *Recommended Practices-Telematics Call Processing*. The document ignores the procedures and processes across myriad private call centers and PSAPs that have been implemented to promote emergency response. The confusion is not reconciled by the document's order of precedence.

Significantly, the proposed standards ignore the issues being addressed by NENA's own NEXT GENERATION 911 efforts; there is no discussion addressing digital information transmissions to a PSAP and the coming work of the federal 911 joint program office. Failing to acknowledge and resolve these challenges goes to the core of standard setting and ultimately reveals a lack of tangible collaboration with stakeholders

3) The process by which the proposed standards were reached betrays accepted principles accompanying private standard setting

The process by which these standards were compiled was seriously flawed. At the outset the purpose was to set requirements for third-party call center access to NENA's/Intrado's PSAP Registry. Because ATX has no need for access, our participation in the process ended. Without notice, the objectives changed to what can

only be described as several ambiguous goals. On page 6, paragraph 3, in the Executive Overview, the objective is to stipulate minimum performance and other standards when assisting public safety agency counterparts in improving emergency and non-emergency service to our customer base. (It is unclear how these standards would improve non-emergency service to telematics subscribers.) In paragraph 4, on page 6, the purpose is to offer general guidance regarding administrative and procedural call center issues and effective interaction with public safety. On page 7, paragraph 1, the purpose becomes establishing minimum operational requirements. On page 8, paragraph 2, the objective is to bring the most expeditious response to the private call center facing an emergency and to ensure that emergency responders are notified quickly, have all relevant, reasonable and releasable information available and are dispatched to the customer's location as quickly as possible. In paragraph 5, page 8, the proposed standards become a guide for setting reasonable professional conduct and expected behavior by both private center call agents and PSAP personnel.

From setting minimum performance standards for our customers to offering private industry guidance on unspecified call center issues, from expediting PSAP response to establishing a code of conduct for PSAPs and third party call centers alike, the document offers a multitude of objectives and then promulgates a series of "assumed administrative remedies". There is no analysis as to what objective is being achieved with each standard, whether circumstances exist or don't exist among third-party call centers requiring a standard, whether new technologies or best-of-class practices address the issue, and, significantly, whether the remedies contradict existing standards, statutes, or contractual agreements.

These shortcomings in purpose, process and substance reflect that the process was not inclusive or broad-based in the scope of its research or in the composition of its Working Group. The process has departed substantially from recognized standard setting protocols used throughout private industry. Once the need to set requirements for the PSAP Registry was abandoned, it becomes apparent there was no evidence suggesting a need for separate NENA standards. The telematics industry knows of no incident a life was jeopardized because of the actions of a telematics professional or its supporting infrastructure. What remains is a document in search of a purpose.

5) The proposed standards violate privacy demands of US and Canadian law

The privacy implications of the document are profound. PSAPs would become collectors and maintainers of electronic evidence under the document. The trust between subscribers and telematics service providers as well as subscribers to services provided by other third party call centers would rupture. The proposed standards will allow personal, financial and medical information to be accessible by the PSAP. The disregard of the privacy regimes in the United States and Canada will disrupt call center actions and enmesh PSAPs in controversies regarding personal privacy.

6) The current manner by which private call center communicate with PSAPs should not be altered

NENA's continuing quest to force third party call center calls through the current "native 911" system, contrary to the expressed wishes of local jurisdictions, would swamp PSAPs with false alarms, non-emergency calls, errors and incidents which do not require a response from a public agency. PSAPs already have difficulty managing a growing work load within 911 centers from wireless calls and do not need to be exposed to unnecessary increased volumes of non-emergency calls. NENA should recognize and accept that the Federal Communications Commission rejected such a proposal, finding that with regard to automotive telematics, current relationships provide the most efficient and effective manner to obtain an emergency response. Significantly, the document's reference to the FCC's Order of August 25, 2004 in Sections 3.2.4 and in Section 4 as support for its position and as the Commission's decision with regard to E 911 responsibilities is incorrect. That Order relates to provisioning of 911 services by MSS providers and did not override the Commission's more detailed decision of December 1, 2003, FCC 03-290.

7) Private Investment will be directed away from emergency response

If adopted, the proposed standards will discourage automakers from deploying life saving automatic collision notification (ACN) technologies. Telematics can exist without safety and security features. It is in the interest of all public safety advocates to encourage the adoption of ACN and Mayday technologies. The threat of imposing the numerous mandates, and creating uncharted depths of legal liability will stunt the growth and investment in ACN and in-vehicle Mayday response. NENA proposed standards place both of these life saving technologies at substantial risk.

Summary

Given the lack of broad industry input, the ambiguous and changing objectives of the process, the lack of first-hand research into current operating guidelines at third-party call centers, and the failure to respond substantively to previous recommendations, the proposed standards reflects no consensus of the stakeholders involved. The result is that the proposed standards are objected to by the very interests expected to implement them.

We have no objection to NENA prescribing conditions for access to its own PSAP registry. We do have deep objections to NENA prescribing standards which NENA's own members do not and could not meet to an industry that has demonstrated, without regulation or mandate, its value to public safety. We have no objection to NENA proposing standards for PSAPs. We would not oppose a cooperative and collaborative effort to propose a single standard of care for all emergency call centers public and private. We do oppose NENA attempting to set itself up as a regulatory body for private industry.

For these reasons, we strongly recommend against the adoption of NENA Private Call Center standards and a return to a more inclusive and collaborative relationship that is committed to fairness.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary A. Wallace". The signature is fluid and cursive, with the first name "Gary" being more prominent.

Gary A. Wallace
Vice President, Corporate Relations
ATX Group

cc: Mr. Robert Martin – Executive Director, NENA: NENA Board Members